

appointed, as shall be approved by the Justices of the peace in Quarter Sessions within whose jurisdiction he shall act; and that it shall be the duty of every such surveyor and he is hereby required, by himself or by some other person in his behalf, to attend at his office every day (Sundays, Christmas Day, and Good Friday excepted) from ten of the clock in the morning till four of the clock in the afternoon; and that immediately upon his appointment, and from time to time upon every change of his residence or of his place of business, or otherwise if required, it shall be the duty of every surveyor and he is hereby required to make a return to the registrar of metropolitan buildings, and to the overseers of the poor of every parish or place within his district, of his name and place of abode, and the place where such office shall be.

DISTRICT SURVEYORS.

Surveyor pro tempore—Duty of Deputy—Fees.

73. And be it enacted, with regard to such surveyor, so far as relates to the appointment of a deputy or substitute in certain cases, that if any surveyor shall be prevented by illness or any other unavoidable circumstances from attending to the duties of his office, then forthwith it shall be his duty and he is hereby required, but subject to the previous consent and approval of the official referees, to appoint some other surveyor, duly qualified as aforesaid, as his deputy, to perform all such his duties for so long a time as he shall be so prevented from executing them; and that thereupon, during such time as aforesaid, it shall be the duty of such deputy surveyor and he is hereby required to perform all the duties of such surveyor, and that in all respects as if he were the surveyor appointed or confirmed under this Act; and that it shall be lawful for such deputy surveyor and he is hereby entitled to receive the fees payable in respect of the services so performed by him in such district.

Vacancies—Occasional Services—Fees for Services.

74. And be it enacted, with regard to such surveyors, so far as relates to the filling up of vacancies, that if any vacancy shall happen through the death or removal of any surveyor, then, within one month thereafter, it shall be the duty of the lord mayor and aldermen, or of the Justices of the peace in general quarter sessions or any adjournment thereof, as aforesaid, and they are hereby respectively required, to appoint a successor as herein directed; and that in the meantime it shall be lawful for the official referees to direct the surveyor of any one or more of the other districts to perform the duties of surveyor for the vacant district, or if no district surveyor can be spared from his own district to appoint some other competent person duly qualified as aforesaid for that purpose; and that every such surveyor is hereby entitled to receive the fees payable in respect of the services so performed by him in such vacant district.

Regulation of Business—Assistant Surveyors—Duties of Assistants—Fees.

75. And be it enacted, with regard to the surveyors, so far as relates to the regulation of their business, that if it shall appear to the official referees that the district appointed for any surveyor is too extensive for the prompt discharge of his functions; then it shall be their duty to represent such their opinion to the Lord Mayor and aldermen of the City of London, or to the Justices of the peace with whom the appointment of a surveyor for that district may rest, and for that purpose to transmit with their letter of representation a transcript of their "Register of Notices," with the results; and that if at any time it appear to such official referees that on account of the pressure of business in any district, or on any other account, the surveyor of that district cannot discharge his duties promptly as regards the buildings and others engaged in building operations, and efficiently as regards the purposes of this Act, then it shall be lawful for such official referees, and they are hereby empowered to appoint any other district surveyor to assist the surveyor of such district in the performance of his duties, or if no district surveyor can be spared from his own district, then to appoint some other competent person to give such assistance; and that with regard to all buildings surveyed by such assistant surveyor, and all other acts done by him, it shall be the duty of such assistant surveyor to make returns and to act in all respects as if he had been appointed by the said Lord Mayor and aldermen, or by the said Justices, to be the surveyor of such district; and that every such person shall be entitled to receive the fees payable in respect of the services so performed by him.

Superintendence of Surveyors.

76. And be it enacted, with regard to such surveyors, so far as relates to the supervision of buildings built, rebuilt, enlarged, or altered by or under their professional superintendence, that it shall not be lawful for any such surveyor to survey any such building for the purposes of this Act, but that such building must be surveyed by another district surveyor, or by another surveyor to be appointed by the official referees for that purpose.

Surveyor's Fees—Refusal of Payment—Fees to be paid only for Work done agreeably to Act—Refunding Fees.

77. And be it enacted, with regard to such surveyors, so far as relates to their remuneration, that upon the expiration of one month after the roof of any building erected and surveyed under this Act shall have been covered in, and all the walls thereof have been built to their full heights, and the principal timbers and floors shall have been fixed in their places, and upon the expiration of fourteen days after the completion of any addition, alteration, and repair, and upon the expiration of fourteen days after each special service shall have been performed, and

upon delivering to the owner of the building an account of the fees incurred, and upon tendering a receipt, signed with his christian and surname, and stating the amount of such account, and the work done, it shall be lawful for the surveyor and he is hereby entitled to receive from the builder, or from the owner or from the occupier of the building, for his time and trouble and expenses in enacting the rules, regulations, and directions of this Act to be observed, the several fees specified in the schedule of fees (L.) hereunto annexed; and that if on tender of such receipt any builder, owner, or occupier who shall be unable to pay any such fee shall refuse to pay the same, then upon application to any Justice of the peace, it shall be lawful for such Justice and he is hereby required to summon the party complained of in the first instance, and if he do not appear, or if he fail to satisfy the said Justice as to the refusal of payment as aforesaid, it shall be lawful for such Justice, and he is hereby required to issue his warrant to levy the amount of such fee by distress and sale of the goods and chattels of the party so refusing, in like manner as poor's rates are by law recoverable, and if such fee be paid by the occupier, he shall be entitled to recover the amount thereof from the owner: Provided always, that if the work in respect of which such fee shall become payable have not been done in every respect agreeably to the directions of this Act, then it shall not be lawful for any surveyor to receive such fee; and that if he shall so receive it, then, upon application to the official referees by any party interested in the building in respect of which such work shall have been executed, and upon its appearing that such fee has been received wrongfully, it shall be lawful for such official referees and they are hereby authorized (if they think fit) to order the said surveyor to refund such fee.

Surveyor's Returns—Inspection of Returns—Authentication and Effect of Returns.

78. And be it enacted, with regard to such surveyors, so far as relates to a return of the business done by them, and to the inspection thereof, that within seven days after the first day of every month, it shall be the duty of every surveyor, and he is hereby required to make a return to the registrar of metropolitan buildings, enumerating therein the number and nature of all the several works executed within the previous month under his supervision, and the fees paid to him for the same, and also a copy of the list or register of notices served upon him, with the results thereof, and to keep in his office a copy of such return; and that if any person shall apply to inspect the same, then on the payment of one shilling it shall be open for inspection at all reasonable times; and with regard to such return, so far as relates to the authentication and effect thereof, that every such return must be signed by such surveyor, and if so signed it shall be deemed to be a certificate that all the works enumerated therein have been done in all respects agreeably to this Act, according to the best of his knowledge and belief, and that they have been duly surveyed by him; but no such return shall be any protection from or hindrance to any future proceedings in respect of works not executed according to the provisions of this Act, though the same may have been done before the making of such return.

Penalty for Extortion, Negligence, or Unfaithfulness—Complaint to Justices—Proceedings Thereon—Decision—Incapacitation of Surveyor.

79. And be it enacted, with regard to every surveyor, so far as relates to the discharge of his duties, that if any surveyor demand or willfully receive any higher fee than he shall be entitled to under this Act, or if in his capacity of surveyor he receive a fee for any act or omission in respect of which he is not entitled to receive any remuneration, or if he refuse to refund any fee wrongfully received by him in respect whereof the official referees shall have made so order to that effect, or if at any time he willfully neglect his duty, or behave himself negligently or unfaithfully in the discharge thereof, then and in every or any such case it shall be lawful for any person to present a complaint in writing under his hand to the lord mayor and aldermen of the city of London, or the court of quarter sessions having jurisdiction over the district for which such surveyor shall act for the time being, at any sessions of the peace, quarter or grand, either original, intermediate, or adjourned, and which complaint shall set forth the nature and particulars of the offence charged by the complainant against any such surveyor; and that the said lord mayor and aldermen or court of sessions, as the case may be, shall by order of court appoint a time for the hearing of the said complaint, and a copy of which order and of the said complaint shall be served by or for the said complainant on the said surveyor ten days at the least before the time appointed for the hearing of such complaint; and the said surveyor shall appear before the said lord mayor and aldermen or court of sessions, as the case may be, at the time and place so appointed for hearing the said complaint, to answer the same; and that if, upon the hearing of the complaint and of the surveyor, and the evidence respectively produced by or for them, it shall appear unto the said lord mayor and aldermen or court of sessions, as the case may be, that such complaint in whole or in part is well founded, then it shall be lawful for the said lord mayor and aldermen, or the said court of quarter sessions, as the case may be, and they are hereby respectively required, either to fine such surveyor in such sum of money not exceeding fifty pounds as they shall think fit, or to discharge him forthwith from his said office; and that if for any such cause such surveyor be discharged, he shall be incapable of being appointed a surveyor for the purposes of this Act.

Appointment of Two Official Referees—Tenure of Office—Not to act as Surveyors—Temporary Official Referee.

80. And now, for the purpose of providing for the appointment of competent official referees to superintend the execution of this Act throughout all the districts to which it is applicable, and also to determine sundry matters in question incident thereto, as well as to exercise, in certain cases, a discretion in the relaxation of the fixed rules and directions of this Act, where the strict observance thereof is impracticable, or would defeat the object of this Act, or would needlessly effect with injury the course and operation of this branch of business, be it enacted, with regard to the official referees, so far as relates to their appointment, to their qualifications, and to the tenure of their office, that it shall be lawful for one of her Majesty's principal secretaries of state, and he is hereby empowered to appoint two persons, being of the profession of an architect or surveyor, to be official referees of metropolitan buildings, and from time to time, as he shall think proper, to remove such official referees, and in their place to appoint other persons so qualified; and that while any such person shall so hold the office of official referee it shall not be lawful for such person, and he is hereby expressly prohibited to act as surveyor, either alone or with any partner or by an agent, or to act as official referee in the case of any building or matter in which he shall act as architect; and that if an official referee be employed as architect as to any building or matter within the limits of this Act, then it shall be the duty of such official referee and he is hereby required to report thereon to the Commissioners of Works and Buildings; and thereupon it shall be the duty of such Commissioners of Works and Buildings and they are hereby required to appoint some other competent person to act in conjunction with the other official referee as to such building or matter.

Their Functions generally.

81. And be it enacted, with regard to such official referees, so far as relates to their functions generally, that it shall be the duty of such official referees and they are hereby required to superintend the execution of this Act by the several district surveyors already existing or hereby authorized to be appointed, and to perform the several matters to them respectively assigned by the provisions of this Act, and to determine all questions referred to them, whether expressly by this Act or at the instance of any one or more of the parties concerned.

Matters of Reference—One Referee may act.

82. And be it enacted, with regard to the official referees, so far as relates to their jurisdiction, that if any doubt, difference, or dissatisfaction in respect of any matter within the limits of this Act arise between any parties concerned, or between any party and any surveyor, or between any two surveyors, as to any act done or to be done in pursuance of this Act, or as to the effect of the provisions thereof in any case, or as to the mode in which the provisions and directions of this Act are or ought to be carried into effect, and particularly as to whether the requirements implied in terms of qualification applied to sites, to soils, to materials, or to workmanship, or otherwise, and denoting good, sound, fire-proof, fit, proper, or sufficient, are fulfilled in certain cases, or as to the district in which any building, matter, or thing is to be deemed to be situate, especially in cases where such building, matter, or thing is partly in one district and partly in another, or as to the expenses to be borne by the respective owners of premises parted by the same party-walls, or the proportions thereof, or as to the proportions of the expense to be borne by the occupier or by the owners of premises in respect of any work executed, or any other matter whatever, then it shall be lawful for any party concerned and he is hereby entitled to require the official referees to determine such matter, but so that such requisition be made in writing, and that it set forth, either generally or otherwise, the matters in respect of which the determination of the official referees is required; and that the determination of such referees, or of one of such referees, with the assent of the registrar of metropolitan buildings, as to all or any of the points in difference on which such referees shall make their award, and as to the costs, charges, and expenses of such reference, shall be binding on all parties to such reference.

Award and Powers of Referees—Effect of Legal Awards—Effect as to Persons.

83. And be it enacted, with regard to the official referees, so far as relates to their authority in respect of any reference to them, and to the effect of their award upon the rights and interests of the owners and occupiers of property, that it shall be lawful for such referees and they are hereby empowered to exercise all such powers of arbitrators as they would have had in case they had been appointed under an order of her Majesty's Court of Queen's Bench at Westminster; and that if such award be given in writing, and be sealed by the official seal of the registrar of metropolitan buildings, it shall be as effectual as if made under an order of reference by such court, and shall be enforced by the said court in all respects as if made under an order of such court; and that it shall be binding and conclusive against every person, including the Queen's Majesty, her heirs and successors, claiming any estate, right, title, trust, use, or interest in, to, or out of the said premises or any part thereof, either in possession, reversion, remainder, or expectancy, and against every other person whomsoever.

Revocation of Authority of Official Referee—Not to affect their Award.

84. And be it enacted, with regard to any reference